

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U.S. VENTURE, INC.,

Plaintiffs,

v.

Case No. 15-C-990

MCCORMICK TRANSPORT LLC and
JOE MCCORMICK,

Defendants.

ORDER

This is a diversity action for breach of contract. The plaintiff, a Wisconsin corporation, brought the action against a Michigan limited liability company (LLC). Not surprisingly, upon filing the complaint, the plaintiff failed to clearly state the citizenship of the defendant LLC. This is not surprising since many attorneys assume that LLCs are corporations and thus take the citizenship of their states of registration and their principal place of business for purposes of assessing federal diversity jurisdiction. As the Court explained in its order dismissing the action for lack of jurisdiction entered on August 21, 2015, this is incorrect. Federal law treats LLC's as partnerships and thus LLCs are considered citizens of every state in which a member is a citizen. *See Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 692 (7th Cir. 2003). Plaintiff filed an amended complaint alleging on information and belief that the defendant LLC was a citizen of Michigan. Since the membership of LLCs is generally not a matter of public knowledge, plaintiff's reliance on information and belief is understandable and sufficient to commence the action.

In response to the complaint, the defendants have filed a motion to dismiss on the ground that the court lacks personal jurisdiction over the defendants. The motion fails to disclose whether any

member of the defendant LLC is a citizen of the State of Wisconsin. In an affidavit filed in support of the motion to dismiss, defendant Joel McCormick avers that he is a member of the LLC and that he is a citizen of the State of Michigan. The affidavit fails to disclose, however, whether there are additional members of the LLC and if so, in which States they are citizens. Absent such information, the court is unable to determine whether there is complete diversity between the parties and the court cannot even proceed to determine whether personal jurisdiction exists.

Accordingly and for the foregoing reasons, the defendants are directed to supplement the record with an affidavit or sworn declaration stating whether there are additional members of the defendant LLC and, if so, the State or States of their citizenship. Absent good cause, the defendants should do so within the next ten days.

SO ORDERED this 13th day of October, 2015.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court